

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

(240) 777-6600

**Case No. S-2788**

**PETITION OF IVY YIMO WU**

OPINION OF THE BOARD

(Opinion Adopted June 1, 2011)

(Effective Date of Opinion: June 10, 2011)

Case No. S-2788 is an application for a special exception, under Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on April 11, 2011, closed the record in the case on May 2, 2011, and on May 17, 2011 issued a Report and Recommendation for approval of the special exception, subject to conditions.

The subject property is Lot 48, Block F, Quince Orchard Valley Subdivision, located at 12301 Bradbury Drive, Gaithersburg, Maryland, 20878-2029, in the R-200 Cluster Zone.

Decision of the Board:                      Special Exception **Granted**, Subject to  
the Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on June 1, 2011. After careful consideration and review of the record, the Board Adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner shall be bound by all of her testimony, representations and exhibits of record identified in the Hearing Examiner's Report and in this opinion;
2. Petitioner must comply with DHCA's determination of the maximum permitted occupancy for the accessory apartment (*i.e.*, the accessory apartment may be occupied by no more than one person) and the other DHCA directives

needed to ensure that the accessory apartment is maintained up to Code, as listed in Exhibit 15(a):

- a. Double cylinder door lock must be removed from entry way door or replaced with a single cylinder door lock.
  - b. A window located in the unit has to meet code for emergency egress. The window on the right (closest to the door) measures at 13.2 inches in length and 32 inches in width. Neither window meets code egress requirements. Windows shall be at least five square in net clear opening. Must be openable without the use of a tool with a minimum net clear opening height of 24 inches and a minimum net clear opening width of 20 inches, with the bottom of the opening not more than 44 inches above the floor.
  - c. The enclosed square footage of the entire property is 1,092 square feet. The proposed accessory unit contains 240 square feet of habitable space, 1 unrelated occupant can reside in unit.
3. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
  4. Petitioner must not have a guest room for rent, a boardinghouse or a registered living unit, in addition to the accessory apartment, and she must not receive compensation for the occupancy of more than one dwelling unit;
  5. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons;
  6. Petitioner must make off-street parking spaces available for all vehicles she permits her accessory apartment tenant to house on the premises; and
  7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Stanley B. Boyd, seconded by Walter S. Booth, with Carolyn J. Shawaker, David K. Perdue, Vice-Chair and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

---

Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 10<sup>th</sup> day of June, 2011.

---

Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.